

EXHIBIT 7

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FIREMAN'S FUND INSURANCE
COMPANY, ONE BEACON INSURANCE
COMPANY, NATIONAL LIABILITY
AND FIRE INSURANCE COMPANY and
QBE MARINE & ENERGY SYNDICATE
1036.

Plaintiffs,

10-cv-01653 (LAK)

vs.

11 GREAT AMERICAN INSURANCE
COMPANY OF NEW YORK, MAX
SPECIALTY INSURANCE COMPANY
12 and SIGNAL INTERNATIONAL, LLC,

Defendants.

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Deposition of VERNON EWING, taken in the law offices of Johnstone, Adams, Bailey, Gordon & Harris, LLC, One St. Louis Centre, Suite 4000, Mobile, Alabama, on April 19, 2011, commencing at approximately 8:58 a.m.

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Telephone (251) 432-DEPO (3376)

Facsimile (251) 432-6376

APPEARANCES

For Plaintiff FIREMAN'S FUND
INSURANCE COMPANY:
NICOLETTI, HORNIG & SWEENEY
Attorneys at Law
Wall Street Plaza
88 Pine Street, 7th Floor
New York, New York 10005
(212) 220-3830
BY: JOHN A.V. NICOLETTI, ESQUIRE
and
ROBERT A. NOVAK, ESQUIRE

For Defendant GREAT AMERICAN INSURANCE
COMPANY OF NEW YORK:
MATTIONI, LTD.
Attorneys at Law
399 Market Street, 2nd Floor
Philadelphia, Pennsylvania 19106
(215) 629-1600
BY: GEORGE R. ZACHARKOW, ESQUIRE

For Defendant MAX SPECIALTY INSURANCE COMPANY:
NOURSE & BOWLES, LLP
Attorneys at Law
One Exchange Plaza
At 55 Broadway, 30th Floor
New York, New York 10006-3030
(212) 952-6200
BY: LAWRENCE J. BOWLES, ESQUIRE

1 APPEARANCES (Continued)

2

3 For Defendant SIGNAL INTERNATIONAL, LLC:
4 LeBLANC BLAND, PLLC
5 Attorneys at Law
6 909 Poydras Street, Suite 1860
7 New Orleans, Louisiana 70112
8 (504) 528-3088
9 BY: MATTHEW C. GUY, ESQUIRE
10 and
11 JAMES D. PRESCOTT, III, ESQUIRE

12

13

14

15 For WILLIS of ALABAMA and VERNON EWING:
16 BRADLEY ARANT BOULT CUMMINGS, LLP
17 Attorneys at Law
18 One Federal Place
19 1819 Fifth Avenue North
20 Birmingham, Alabama 35203-2104
21 (205) 521-8000
22 BY: RUSHA C. SMITH, ESQUIRE

23

15 Court reporter:
16 DAVID MICHAEL CAMP, CCR - ACCR #298
17 ISBELL & ASSOCIATES, LLC

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3/12/03 - Signal(NY) 006068-006086)

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17 (ABS Consulting Report of Maintenance Program Audit,
9/17/03 - Willis 17709-17714)

18 | EXHIBIT 128 - page 90

19 (Email to Willis from Dorian Geraci, 11/3/08
- Willis 21474-21478)

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21 (Confirmation of Cover from Global Special Risks, 2/2/04
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22 | EXHIBIT 130 - page 130

23 (Great American Pollution Policy, 1/30/09-1/30/10
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5 application - Willis 411-414)*

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25 *(Letter to Claire Spearman from Rebecca Cartwright with
26 attached Fireman's Fund Insurance Company Renewal -
27 Signal(NY) 000198-000238)*

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30 attached Fireman's Fund Insurance Company Renewal -
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5 EXHIBIT 143 - page 245

(Email to Joseph MacDonald from John Baker, 9/3/09)

7 EXHIBIT 144 - page 252

(Email to John Baker and Vernon Ewing from Chris
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11 EXHIBIT 146 - page 267

(Email to Ken Cruikshank, John Bullock and John Baker
from Lisa Spears, 2/3/10, with attachments
- KC0103-0106)

13 EXHIBIT 147 - page 283

(Statement of Person Involved in
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16 EXHIBITS BOUND SEPARATELY

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STIPULATION

2 It is stipulated and agreed by and
3 between the parties hereto, through their
4 respective counsel, that the deposition of VERNON
5 EWING may be taken before David Michael Camp,
6 Notary Public for the State at Large, at the law
7 offices of Johnstone, Adams, Bailey, Gordon &
8 Harris, LLC, One St. Louis Centre, Suite 4000,
9 Mobile, Alabama, on April 19, 2011.

10 It is further stipulated and agreed that
11 this deposition is taken pursuant to the Federal
12 Rules of Civil Procedure. The provisions of Rule
13 32(d)(3) dealing with waiver of errors and
14 irregularities as to the taking of the deposition
15 apply fully to this deposition.

16 Notice of the deposition and any errors
17 or irregularities therein [Rule 32(d)(1)] and any
18 objections to the qualifications of the officer
19 before whom this deposition is taken [Rule
20 32(d)(2)] are waived.

21 The submission of the deposition to the
22 witness for reading to or by him and the signing
23 of the deposition by him [Rule 30(e)] is not

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1 | waived.

2 Filing of the original of the transcript
3 of this deposition [Rule 30(f)(1)] is waived.

4 Any other technicality or defect in the
5 taking of this deposition not otherwise covered by
6 the terms of this stipulation is waived.

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I, David Michael Camp, Commissioner and Court Reporter, certify that on this date, as provided by the Federal Rules of Civil Procedure and the foregoing stipulation of counsel, there came before me at the law offices of Johnstone, Adams, Bailey, Gordon & Harris, LLC, One St. Louis Centre, Suite 4000, Mobile, Alabama, on April 19, 2011, commencing at 10:00 a.m., VERNON EWING, witness in the above cause, for oral examination, whereupon the following proceedings were had:

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VERNON EWING - EXAMINATION BY MR. BOWLES 9

1 VERNON EWING, having been first duly sworn to
2 speak the truth, the whole truth, and nothing but
3 the truth, testified as follows:

EXAMINATION

5 | BY MR. BOWLES:

6 Q Good morning, Mr. Ewing. My name is
7 Lawrence Bowles, attorney for Max Specialty
8 Insurance Company.

9 A Morning.

10 Q And I have a number of questions in this
11 matter. I'm sure you've been prepared by your
12 attorney to listen to the questions and answer
13 what you know, and so on. Do you need any further
14 advice on answering questions?

15 A I think I'm good to go.

16 Q Have you been deposed before?

17 A Yes.

18 Q So you know the drill.

19 A Been a while, but, yes.

20 Q Where are you employed?

21 A Willis of Alabama.

Q In what position?

23 | A I do primarily marketing, but I have

1 client responsibilities.

2 Q What type of client responsibilities?

3 A I have my own book of business that I
4 monitor and maintain and help in marine
5 sometimes. But my primary duties are marine
6 marketing.

7 Q Okay. How old are you, sir?

8 A Fifty-six.

9 Q How long have you been employed by
10 Willis?

11 A Since '89.

12 Q And before that?

13 A I was with Marsh McLennan in New
14 Orleans.

15 Q And before that?

16 A Part-time surveyor for Stanhope Hopkins
17 Surveyors.

18 Q Okay. Well, let's go back to the
19 beginning. What is your education, sir?

20 A I have a degree from Loyola in New
21 Orleans.

22 Q In what field?

23 A Liberal Arts.

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1 MR. BOWLES:

2 Q Is that correct?

3 A Yes.

4 MR. ZACHARKOW: You may just as well
5 tell him he can answer when you object to the
6 form.

7 MS. SMITH: He knows that.

8 MR. BOWLES:

9 Q And with Marsh McLennan, what field were
10 you in? What type of business were you dealing
11 with?

12 A Marine insurance, but there was more
13 than just marine. But primarily marine.

14 Q And you've been with Willis since 1989,
15 you said?

16 A Correct.

17 Q And tell us the progression of your
18 positions with Willis from 1989 to date.

19 A In '89, I came purely as a marine
20 marketing manager, and transitioned to team up
21 with John Bullock and maintain his book in
22 marketing and handle some accounts myself.

23 Q The issues in this case concern a

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1 insured as part of Friede Goldman's package,
2 yes.

3 MR. BOWLES:

4 Q Whatever the precise name was, it was --

5 A Which entity it was a part of.

6 Q Now, coming up to the more recent time,
7 particularly in 2003 through 2009, the drydock was
8 associated with a company called Signal
9 International, LLC?

10 A Correct.

11 Q And you arranged for coverages on the
12 drydock with Signal International?

13 MS. SMITH: Object to the form.

14 THE WITNESS: I don't recall in 2003
15 how the placement was structured.

16 MR. BOWLES:

17 Q When is the first year you can recall
18 how the placement was structured? Approximately.

19 A I mean, it's varied every year a little
20 bit. I mean, underwriters come on and go off.

21 Q My question didn't concern
22 underwriters. But did you arrange insurances for
23 Signal on the AFDB-5? Yes or no, sir?

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1 MS. SMITH: Object to the form.

2 You're referring to him specifically, or

3 Willis? I'm not sure who you mean by "you."

4 MR. BOWLES: Sorry.

5 THE WITNESS: And what type of
6 insurance?

7 MR. BOWLES:

8 Q Well, in 2003 to 2009, what precisely
9 was your position?

10 A Marine marketing.

11 Q And did you have a title?

12 A Vice president.

13 Q Okay. And one of the accounts that you
14 worked on was Signal International?

15 A Yes.

16 Q And did you place various forms or did
17 you, on behalf of Willis, assist Signal in
18 obtaining insurances on the AFDB-5 of various
19 types?

20 A Yes.

21 Q And did that include property insurance?

22 A No.

23 Q Who arranged that?

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1 A I believe Zaleen Palmer was the
2 marketing representative that did the property.

3 Q Okay. And what part did you play?

4 A Marine liabilities.

5 Q Specifically the marine liability
6 insurances?

7 A Yes.

8 Q Primary and excess?

9 A Yes.

10 Q And you did that for each of the years
11 from 2003 through 2009?

12 A Yes.

13 Q Let me turn to Exhibit 81, please. I'll
14 show you a document marked Johnson Exhibit 81.

15 A Okay.

16 Q Is that a document with which you're
17 familiar, sir?

18 MS. SMITH: Take a look at it and
19 make sure what it is.

20 THE WITNESS: It looks familiar,
21 yes.

22 MR. BOWLES:

23 Q Let's turn to page 1 for a moment, the

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1 employee?

2 MS. SMITH: Object to the form.

3 THE WITNESS: No.

4 MR. ZACHARKOW:

5 Q It's different language a little bit but
6 it's consistent with the language that we looked
7 at in the Willis proposal. Correct?

8 MS. SMITH: Object to the form and
9 object to the extent the documents speak for
10 themselves.

11 THE WITNESS: It seems familiar.

12 MR. ZACHARKOW:

13 Q Did you have anything to do with the
14 investigation of the sinking of the drydock?

15 A No.

16 Q Do you have anything to do at Willis
17 with regard to the placement of the pollution
18 insurance?

19 A Yes.

20 Q What is your involvement in that regard?

21 A I contacted underwriters, sent them
22 underwriting information and received quotes.

23 Q What information do you provide to

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1 underwriters with regard to pollution coverage in
2 the normal course?

3 MS. SMITH: Object to the form.

4 THE WITNESS: The submission would
5 include loss information, description of
6 operations, schedule of vessels with GRTs.

7 MR. ZACHARKOW:

8 Q Gross tons?

9 A I'm sorry. Yes.

10 Q For the record. Have you been the one
11 who's involved with the placement of the pollution
12 for Signal since it's been operating the drydock?

13 A Yes.

14 Q The AFDB-5. When I say "drydock," I'm
15 referring to the AFDB-5.

16 A Okay.

17 Q Do you understand that?

18 MR. NICOLETTI: Can you put a time
19 frame on that? Is that 2004 forward? 2003
20 forward?

21 MR. ZACHARKOW: Well, I said since
22 Signal started operating the drydock.

23 MR. NICOLETTI: But it's easier on

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1 the record to use a date.

2 MR. ZACHARKOW:

3 Q Do you know the date that Signal started
4 operating the drydock?

5 A Signal commenced operations in 2003.

6 When the drydock specifically was first used, I
7 don't know.

8 Q Let me put it this way. Since Signal
9 was first responsible for insuring the drydock.
10 Is that better?

11 A Yes.

12 MR. PRESCOTT: Objection to the
13 form.

14 MR. ZACHARKOW:

15 Q And prior to Signal becoming responsible
16 for insuring the drydock, is it correct that
17 Friede Goldman Offshore, LLC was operating the
18 drydock? Is that correct?

19 A I'm not sure which Friede entity was
20 responsible. But it was a Friede asset, yes.

21 Q And with regard to that, you also were
22 responsible for placing the pollution insurance
23 for that Friede Goldman entity?

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1 MR. ZACHARKOW:

2 Q Did you have any involvement in the
3 preparation or vetting of that contract?

4 A No.

5 Q Did anyone at Willis have any
6 involvement with that?

7 A Don't believe so.

8 Q Are you aware of any hazardous
9 substances other than oil which may have been
10 discharged or released from the drydock when it
11 sank?

12 MR. NICOLETTI: Objection as to
13 form.

14 THE WITNESS: No.

15 MR. ZACHARKOW:

16 Q In looking at the documents, Mr. Ewing,
17 it appears that the pollution carrier in 2003 was
18 WQIS. Is that correct?

19 A For Signal?

20 Q Yes, sir.

21 A Don't recall.

22 Q At some point, it was changed to Great
23 American. Correct?

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1 A Correct. I don't know if Great American
2 was on the inception or when they came on but it
3 was eventually with Great American.

4 Q It appears from the records, I'll just
5 represent, that Great American's first policy year
6 was January 30, '04.

7 A Okay.

8 Q And then running forward. And they're
9 still on the risk. Correct?

10 A Yes.

11 Q Since January of '04 -- or let's go back
12 to the end of '03 because you'll be approaching
13 the renewal in '04 -- has the pollution cover been
14 marketed at all for other carriers or has it just
15 stayed with Great American?

16 A Stayed with Great American.

17 MR. NICOLETTI: The question was,
18 was it marketed to any other market during
19 that period.

20 THE WITNESS: I don't think so.

21 MR. ZACHARKOW:

22 Q From 2004 forward, have there been any
23 claims that were presented under the pollution

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1 policy?

2 A I don't believe so.

3 THE WITNESS: Can you give me two
4 seconds?

5 MR. ZACHARKOW: Sure.

6 (A RECESS WAS TAKEN FROM 11:37 A.M.

7 TO 11:39 A.M.)

8 MR. ZACHARKOW:

9 Q Who did you deal with at Great American
10 with regard to the placement of the pollution
11 policy?

12 A There's three individuals; Steve Weber,
13 Cindy Stringer and Lever Reese. Or Reese Lever.
14 I'm not sure.

15 Q And in terms of the communications with
16 them, was it only at the time as renewals were
17 approaching?

18 A Primarily, yes.

19 Q And just would you explain what that
20 process was from your end?

21 A We would send a submission to -- it
22 varied whether it be Steve or Cindy, and send
23 underwriting information with an updated schedule,

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1 obtain the quotes, confirm the terms and, you
2 know, present to Signal and then confirm the
3 renewal order back to Great American and get the
4 binder and confirmation.

5 Q For each renewal, was there an
6 application that was completed by Signal for the
7 renewal of the --

8 A Signal provided --

9 Q -- pollution policy? Let me ask the
10 question again. For each renewal, was there an
11 application that was provided by or on behalf of
12 Signal --

13 A Yes.

14 Q -- for the pollution policy?

15 A Yes.

16 Q And that was provided through Willis.
17 Is that correct?

18 A Correct.

19 Q I've seen applications that had your
20 name on it that you had authority by Signal to
21 prepare the application and submit it.

22 A Correct.

23 Q Mr. Ewing, let me show you what we

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1 marked yesterday as Exhibit 109.

2 And I'll represent that was taken out of that
3 collection of documents that we were talking about
4 earlier and you indicated was your marketing file
5 or would appear to be your marketing file. Do you
6 understand that?

7 A Yes.

8 Q Did you have a moment to look at that
9 submission?

10 A Yes.

11 Q Is that the submission that was
12 presented for the '09-10 pollution policy?

13 A Yes.

14 Q Does that appear to be the complete
15 submission, Mr. Ewing, or is there anything
16 missing from it?

17 A The schedule of vessels isn't attached.

18 Q What else, if anything?

19 A I think that should account for
20 everything.

21 (EWING EXHIBIT 130 WAS MARKED

22 FOR IDENTIFICATION.)

23 MR. ZACHARKOW:

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1 Q Mr. Ewing, I'm handing you what we've
2 marked as Exhibit 130. Would you please take a
3 look at that?

4 A Okay.

5 MS. SMITH: Are you going to do the
6 Bates?

7 MR. ZACHARKOW: Yeah. I should do
8 that. Bates stamp Willis 2505 to Bates stamp
9 Willis 2526.

10 MR. ZACHARKOW:

11 Q Have you had a chance to look at that?

12 A I glanced at it, yes.

13 Q Is that the policy that was issued by
14 Great American for the term January 30, 2009 to
15 January 30, 2010?

16 A It appears to be.

17 Q And at the bottom it says: "Producer
18 Copy." Is that you? Is that Willis as the
19 producer?

20 A Yes.

21 Q During the time frame that Signal was
22 operating the drydock in the run of the 2004
23 period, which is when Great American came on the

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1 Q And I think you've indicated that it
2 looked familiar to you.

3 MR. NICOLETTI: Objection as to
4 form.

5 MR. ZACHARKOW:

6 Q Correct?

7 A Yes.

8 Q Did you have any discussion with anyone
9 at Signal after having received that appraisal
10 report from Heger?

11 A I don't recall.

12 Q Let me correct that question because it
13 had a bad reference in it because you didn't
14 receive it from Heger. You received the Heger
15 appraisal report from Signal. Correct?

16 A Correct.

17 Q After that, did you have any discussions
18 with anyone at Signal regarding that report?

19 A I don't recall any.

20 Q Now, the way the renewal process works,
21 as I understand it, as you're approaching the
22 January renewals each year, do you start to
23 prepare the submissions and send them out to the

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1 perspective carriers?

2 A Correct.

3 Q So does that process start sometime in
4 the fall of the preceding year?

5 A Yes.

6 Q So during the course of a year from the
7 time that the policy is bound in January of a
8 given year through that policy period, there may
9 be information that would develop regarding a
10 structure such as the drydock that would be
11 referenced at the time of renewal?

12 MS. SMITH: Object to the form.

13 THE WITNESS: Yes.

14 MR. ZACHARKOW:

15 Q In other words, there could be a
16 collision or an allision or something could happen
17 that would be pertinent to a report at the time of
18 renewal?

19 MR. PRESCOTT: Object to the form.

20 MS. SMITH: Object to the form.

21 THE WITNESS: Yes.

22 MR. ZACHARKOW:

23 Q And you would do that. Correct?

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1 MS. SMITH: Right after lunch.

2 MR. BOWLES: I didn't know that. So
3 I'll just take a look.

4 THE WITNESS: I'm familiar. We can
5 go on.

6 MR. NICOLETTI:

7 Q Well, let me ask you this question. Did
8 you compile all of the information in it or just
9 some of it?

10 A Some of it.

11 Q Which parts did you compile?

12 A The marine sections.

13 Q Did you have any involvement with
14 compiling the information in the property
15 sections?

16 A No.

17 Q In the ordinary course of your
18 involvement with the Signal account, did you ever
19 involve yourself with the placement of the
20 property sections of the Signal program?

21 A No.

22 Q At any time prior to the casualty, did
23 you ever review any particular policy contained

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1 property policy within the Signal program prior to
2 the 2009-2010 period?

3 A I don't recall specifics.

4 Q Did you ever review the policy terms and
5 conditions in full?

6 A No.

7 Q With regard to the 2009-2010 property
8 program, that's the primary issued by Westchester
9 and the excess issued by Max Specialty.

10 Did you ever review the full terms and
11 conditions of the policy, of either policy?

12 A No, I don't believe so.

13 Q Did you review any of the terms set
14 forth in the primary policy? Post casualty.

15 MS. SMITH: Property again?

16 MR. NICOLETTI: Property is the
17 focus now.

18 THE WITNESS: I looked at the terms
19 post casualty, yes.

20 MR. NICOLETTI:

21 Q What terms did you look at?

22 A I don't remember specifics but, I mean,
23 the covered perils, the -- the various sections

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1 that are coming up, BMI limits, the values,
2 schedules.

3 Q Did you review it for any other purpose
4 other than the ones you've just described?

5 A I don't believe so.

6 Q Did you ever review it to determine
7 whether or not the policy contained debris removal
8 for the insured property under the program?

9 A I did look at the debris removal
10 section, yes.

11 Q In looking at the debris removal
12 section, did you come to the understanding that
13 the drydock was covered for debris removal?

14 A Yes.

15 Q Did you review the excess property
16 policy and its endorsements?

17 A Possibly. Don't recall.

18 Q Okay.

19 MR. NICOLETTI: Let me have marked
20 for identification a document bearing Bates
21 number Signal(NY) 000198 through and including
22 Signal(NY) 000238.

23 (EWING EXHIBIT 138 WAS MARKED

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1 FOR IDENTIFICATION.)

2 MR. NICOLETTI:

3 Q Mr. Ewing, I hand you what has been
4 marked as Exhibit 138. Can you identify that
5 document for me?

6 A Fireman's Fund issued bumbershoot for
7 Signal.

8 Q When you say Fireman's Fund issued the
9 bumbershoot for Signal, was Fireman's Fund the
10 only insurer on this particular policy?

11 A No.

12 Q And the other two insurers are whom, if
13 you recall?

14 A National Liability & Fire and Lloyd's.

15 Q Lloyd's. Would that be QBE?

16 A Yeah.

17 Q Just keep that in front of you, along
18 with the other policies, please.

19 MR. NICOLETTI: Let's have this next
20 document bearing production control number
21 Signal (NY) 000120 through and including
22 Signal (NY) 000197 marked as Exhibit 139.

23 (EWING EXHIBIT 139 WAS MARKED

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1 FOR IDENTIFICATION.)

2 MR. NICOLETTI:

3 Q Let me hand you Exhibit 139. Can you
4 identify that document, please?

5 A This is the Fireman's Fund issued MGL
6 policy for Signal international.

7 Q And that policy is also for the 2009-
8 2010 period, as was the excess?

9 A Correct.

10 Q And who are the underwriters on that
11 policy?

12 A Trident -- I mean, it's Fireman's Fund
13 split with Trident. But I'm trying to remember if
14 it's XL or One Beacon. Yeah. One Beacon.

15 Q Trident was the managing general agent
16 for One Beacon at that time?

17 A Yes.

18 Q And prior to that time, Trident was the
19 managing general underwriter for XL.

20 A Correct.

21 MR. NICOLETTI: Now, let me mark
22 this document as -- unfortunately, I don't
23 have a Bates-stamped copy. I believe this

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1 two clauses and the other insurance clauses of
2 these policies and tell us how they operate?

3 MS. SMITH: I'm going to object to
4 the extent that if that was asked, you're
5 asking for an attorney-client privilege.

6 MR. NICOLETTI: I'm entitled to know
7 if they had the discussion. I'm not entitled
8 to know what the discussion was about. And
9 you know that's the rule.

10 MS. SMITH: Well --

11 THE WITNESS: I don't know.

12 MR. NICOLETTI:

13 Q Do you recall at one point receiving an
14 email from Signal where Signal, itself, stated
15 that the payment from Westchester would be split,
16 5 million dollars for debris removal and 5 million
17 dollars for the dock, itself?

18 A I don't recall that. I mean, I know
19 there was conversations and there were
20 negotiations. Do I recall a specific email from
21 Signal? No.

22 MR. NICOLETTI: Let's have this
23 document marked as Exhibit 144.

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1 (EWING EXHIBIT 144 WAS MARKED

2 FOR IDENTIFICATION.)

3 MR. NICOLETTI:

4 Q Mr. Ewing, can you identify that
5 document?

6 A It says, Linda Roussis at the top. I'm
7 not sure who that is.

8 Q That means it was printed by my
9 machine. She's my -- one of my paras.

10 A It's an email from Chris Cunningham to
11 Baker and myself.

12 Q Who is Chris Cunningham?

13 A He's the CFO at Signal.

14 Q And who is Baker?

15 A John Baker is our claims manager.

16 Q Okay. What's the date of the email?

17 A January 26th, 2010.

18 Q Are you copied on that email?

19 A Yes.

20 Q Can you read the email into the record,
21 please?

22 A "Have you been able to hook up
23 with Cody yet?? We need a claim

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1 submitted to Max for the total amount
2 of the dock beyond 5 million. The
3 first 10 million that we received
4 from the primary was for 5 million of
5 debris removal and 5 million for the
6 dock. Ken Cruikshank needs to be
7 made aware of this."

8 Q Who is Cody?

9 A I'm trying to remember.

10 Q Was he the Max Specialty adjuster?

11 A I believe so, yes.

12 Q And who was Chris Cruikshank?

13 MS. SMITH: Ken.

14 THE WITNESS: Ken Cruikshank is --

15 he was --

16 MR. NICOLETTI:

17 Q Again, Max Specialty?

18 A Was he the primary? I was just trying
19 to remember who Cruikshank represented.

20 Q Primary Westchester?

21 A I believe so.

22 MR. GUY: Ken Cruikshank is an
23 independent adjuster. I don't think he's

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